

1                   JENNIFER STONE FISCHMAN

2                   A.        Yes.

3                   Q.        How many times?

4                   A.        I couldn't say. I mean, we  
5                   discussed it during the -- you know, we  
6                   discussed it -- I can't discuss what we  
7                   discussed; right?

8                   MR. BERMAN: He's asking you  
9                   how often. You can answer.

10                  A.        Oh. I don't know. Once or  
11                  twice. I don't know. Once or twice.

12                  Q.        Okay. Have you discussed the  
13                  deposition since June 28th with anybody  
14                  other than your attorneys?

15                  A.        Just my husband.

16                  Q.        Okay. Let me start by putting  
17                  in front of you three Exhibits, which are  
18                  all documents that were produced after the  
19                  first day of your deposition. The first  
20                  Exhibit is marked Fischman 788 through  
21                  Fischman 834, a collection of various  
22                  documents, which we'll talk about. The  
23                  second Exhibit is marked Fischman 835, a  
24                  single page. And the third Exhibit is  
25                  three pages marked Fischman 836 through

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2 Fischman 838. And the first two of those  
3 Exhibits were produced to us on June 25th,  
4 2021, and the third was produced on July  
5 16th, 2021.

6 MR. FORTINSKY: Frances, how  
7 are we proceeding with marking  
8 Exhibits under the circumstances with  
9 you not being present here? Is there  
10 a protocol that your firm generally  
11 follows under these circumstances?

12 THE REPORTER: You can just  
13 deem them marked and describe what  
14 they are on the record.

15 MR. FORTINSKY: Okay. I'm  
16 going to mark them in ink. Do you  
17 know what Exhibit number we're up to?  
18 Does anybody know what Exhibit number  
19 we're up to?

20 MR. VALLI: I want to say 28  
21 because 27 is the last thing in my  
22 notes.

23 MR. FORTINSKY: Okay. Well,  
24 why don't I -- I'll mark them  
25 Exhibits 30, 31 and 32.

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2                   (Whereupon, Fischman 788  
3                   through Fischman 834 was deemed  
4                   marked as Exhibit 30 for  
5                   Identification as of this date by the  
6                   Reporter; Fischman 835 was deemed  
7                   marked as Exhibit 31 for  
8                   Identification as of this date by the  
9                   Reporter; and Fischman 836 through  
10                  Fischman 838 was deemed marked as  
11                  Exhibit 32 for Identification.)

12                  Q.        Miss Fischman, do you recognize  
13                  these three Exhibits to be the three sets  
14                  of documents produced by your counsel  
15                  subsequent to June 15th?

16                  A.        Yes, I do.

17                  Q.        These documents were not  
18                  previously produced in the litigation?

19                  A.        No.

20                  Q.        Do you know why they weren't  
21                  previously produced in the litigation? And  
22                  if the answer is different for different  
23                  documents, feel free to say so.

24                  A.        Okay. Exhibit -- what we'll  
25                  talk about is 30 and 31 I had in my

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2    possession and didn't realize. Thought I  
3    had provided everything to counsel. I  
4    admit to being less than organized in my  
5    office. And, specifically, the documents  
6    789 through 824 was a notebook that I had  
7    in -- I had it in a purse that was buried  
8    in my closet and didn't realize I had.

9                   Q.     How did you come to realize  
10    that you had it?

11                  A.    I went to use the purse and I  
12    discovered it.

13                  Q.    When did you go to use the  
14    purse?

15                  A.    Sometime in early spring this  
16    year.

17                  Q.    And what did you do then upon  
18    discovering you had this notebook in your  
19    purse?

20                  A.    I did a more thorough review of  
21    everything that I had in my possession and  
22    in my home office and in my bags at home,  
23    and I photocopied them and I sent them to  
24    my counsel.

25                  Q.    Tell me about that further

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2   review.   What did that consist of?

3                   A.    I had a bunch of stacks of  
4    papers in my bedroom, and I went through  
5    all of the papers and asked if I had  
6    already provided those to counsel, and he  
7    said that he did not see them, so, I --  
8    again, like I said, I went through the  
9    different papers and I found a few  
10   additional documents that I have not  
11   previously produced.

12                  Q.    And were pages 824 through 834  
13   among those papers?   I'm referring to the  
14   pages from Exhibit 30 marked --

15                  A.    Yeah, yeah.   So, there were  
16   just a few more things that I found that,  
17   yeah, I had thought I had previously given  
18   to counsel and I realized that I had not.  
19   So, I was actually quite upset with the  
20   fact that I had thought that all of this  
21   was in an earlier production and realized  
22   that it was not.   In fact, we -- I had  
23   talked to my counsel as if he already had  
24   it in possession.

25                  MR. BERMAN:   I counsel the

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2                   witness not to reveal any privileged  
3                   attorney-client communications, but  
4                   if you're asked nonsubstantive  
5                   questions, you may answer them.

6                   Q.        Had you looked in your home  
7                   office when you initially did the review of  
8                   documents that led to the earlier document  
9                   productions in the case?

10                  A.        In my earlier review, I was  
11                  focused on electronic documents, like all  
12                  of the job applications and things like  
13                  that, and, so, again, I admitted to not  
14                  being fully, you know, my home office not  
15                  being terribly well-organized, and, so,  
16                  there was a folder of documents that did  
17                  not get copied, you know, that is included  
18                  in that Exhibit 30 and 31.

19                  Q.        Were any of the documents  
20                  produced by you prior to June 15th from  
21                  sources other than electronic data?

22                  A.        I can't really recall, but I  
23                  think, yes, I had another file that was  
24                  photocopied that I personally photocopied  
25                  and that was produced.

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2                   Q.        And where had that been kept?

3                   A.        It had also been kept in my  
4                   home office in a stack of papers.

5                   Q.        But was produced prior to June  
6                   15th, 2021?

7                   A.        Yes.

8                   Q.        So, why was -- if you searched  
9                   for documents in your home office prior to  
10                   June 15th, why then did you not discover  
11                   some documents but you did discover others?

12                  A.        It was -- other than that  
13                  notebook, I knew about these documents and  
14                  I thought I had photocopied them and  
15                  provided them to counsel. So, the fact  
16                  that one file was left uncopied by myself  
17                  was a surprise to me --

18                  Q.        Okay.

19                  A.        -- and it was inadvertent.

20                  Q.        So, then, Exhibit 31, which is  
21                  produced separately from Exhibit 30, where  
22                  did you discover Exhibit 31 prior to  
23                  producing it?

24                  A.        I'm sorry. That would have  
25                  been produced at the same time. It was in

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2                   the same folder.

3                   Q.        So, what you just testified to  
4                   applies also to Exhibit 31?

5                   A.        Yeah.

6                   Q.        Why was Exhibit 31 produced  
7                   separately from Exhibit 30?

8                   A.        I couldn't say. I didn't  
9                   produce it.

10                  Q.        Okay. Exhibit 32 -- you told  
11                  me that what you were just discussing  
12                  applied to Exhibits 30 and 31. What about  
13                  Exhibit 32? What prompted you to produce  
14                  this information in the past month?

15                  A.        So, Exhibit 32 was your -- we  
16                  got into the expenses and my income for  
17                  2018, '19 and '20, and I explained to you  
18                  that as an independent contractor I incur a  
19                  great deal of expenses associated with the  
20                  generation of my income as a real estate  
21                  agent, and that they were not insubstantial  
22                  expenses, and you asked me to give you a  
23                  list. So, I had this list at home that I  
24                  had given to my husband for tax purposes,  
25                  and it explains in great detail the types

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2 of expenses that I incurred in those years.

3                   Q.        Okay.  We'll come back to that.

4                   A.        Okay.

5                   Q.        Turning now to Exhibit 31.

6                   A.        Yes.

7                   Q.        Can you identify this document?

8                   A.        Yes.  This is the --

9                   MR. BERMAN:  I object to form.  
10                  This is multiple documents.  Do you  
11                  want to specify pages?

12                  MR. FORTINSKY:  No.  Exhibit 31  
13                  is a single page, page 35.

14                  A.        This was the speech that Nick  
15                  Oliva said to me upon my termination at  
16                  approximately 9:30 in the morning on  
17                  January 30th, 2017.

18                  Q.        So, presumably --

19                  A.        It's a copy of the speech.

20                  Q.        Okay.  And presumably you're  
21                  referring to the typewritten portion of  
22                  Exhibit 31?

23                  A.        Yes.

24                  Q.        Not the handwritten portion?

25                  A.        The second paragraph, yes.